

EXHIBIT 3

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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

IN RE SEARCH WARRANT FOR DIGITAL
DEVICES SEIZED ON OR ABOUT March
9, 2018 FROM THE PROPERTY
LOCATED AT 3052 W. CHERYLLYN
LANE, ANAHEIM, CA 92804

No. 2:18-MJ-00484

GOVERNMENT'S EX PARTE APPLICATION
FOR AN EXTENSION, NUNC PRO TUNC,
OF TIME WITHIN WHICH TO RETAIN
DIGITAL DEVICES; AND FOR AN
EXTENSION OF TIME WITHIN WHICH TO
RETAIN AND SEARCH DIGITAL DEVICES;
DECLARATION OF STACEY R. FERNANDEZ

(UNDER SEAL)

The United States of America, by and through its counsel of record, Special Assistant United States Attorney ("SAUSA") Stacey R. Fernandez, hereby applies for an order to extend, nunc pro tunc, by an additional 91 days the time within which the government may retain digital devices seized pursuant to the above-entitled federal search warrant, specifically, to October 10, 2018.

In addition, the United States of America, by and through its counsel of record, SAUSA Stacey R. Fernandez, hereby applies for an order to extend by an additional 60 days the time within which it may

retain and search digital devices seized pursuant to the above-entitled federal search warrant, specifically, to December 9, 2018.

This application is based on the attached declaration of Special Assistant United States Attorney Stacey R. Fernandez, and the files and records of this case, including the underlying search warrant and affidavit in support thereof.

Dated: October 10, 2018

Respectfully submitted,

NICOLA T. HANNA
United States Attorney

LAWRENCE S. MIDDLETON
Assistant United States Attorney
Chief, Criminal Division



STACEY R. FERNANDEZ
Special Assistant United States
Attorney

Attorneys for Applicant
UNITED STATES OF AMERICA

DECLARATION OF STACEY R. FERNANDEZ

I, Stacey R. Fernandez, do hereby declare:

1. I am a Special Assistant United States Attorney assigned to this investigation for United States Attorney's Office for the Central District of California.

I. PURPOSE OF AFFIDAVIT

2. This declaration is made in support of the request, nunc pro tunc, for an extension order to permit the government to retain the following digital devices seized pursuant to the warrant described below (the "SEIZED DIGITAL DEVICES"), from July 7, 2018, to October 10, 2018:

- a. Green and white USB Micro Storage Device(Thumb Drive);
- b. Blue Toshiba SD Memory Card, 2 GB;
- c. Black Sandisk Micro SD, 16 GB;
- d. Black Sandisk Micro SD, 32 GB, with adapter;
- e. Black Sandisk Micro SD, 32 GB;
- f. Black LG Android cell phone, Model Number LGLS991, IMEI Number 357355062960973, with cord;
- g. Silver Samsung cell phone with broken screen, Model Number SM-J327P;
- h. Gold LG Cell Phone with broken screen, Model Number LS990, Serial Number 410KPVH0351583;
- i. Black FC USB 2.0 Thumb Drive;
- j. Black X-Box 360, Model Number 1538, Serial Number 30088234108 with cord;
- k. Red Nintendo DS, Model Number NTR-001;
- l. Black Nintendo DS Lite, Model Number USG-001 with cord;

- m. Black Ultra Sandisk SD Card, 2 GB;
- n. Blue HC SD Card, 4 GB;
- o. Purple Dell Laptop with chipped corner;
- p. Green and White OC Public Works Thumb Drive;\
- q. Black Alcatel cell phone, Model Number 5Q27B, MEID HEX
Number 35790707628717; and

- r. Black Amazon Tablet, Model Number SV98LN, with cord.

3. This declaration also is made in support of the request for an extension order to permit the government to retain and search for an additional 60 days the following digital devices seized pursuant to the warrant described below (the "SUBJECT DIGITAL DEVICES"), from October 10, 2018, to December 9, 2018:

- a. Black LG Android cell phone, Model Number LGLS991, IMEI Number 357355062960973, with cord;

- b. Silver Samsung cell phone with broken screen, Model
Number SM-J327P;

- c. Gold LG Cell Phone with broken screen, Model Number
LS990, Serial Number 410KPVH0351583;

- d. Black X-Box 360, Model Number 1538, Serial Number
30088234108 with cord;

- e. Black Alcatel cell phone, Model Number 5Q27B, MEID HEX
Number 35790707628717; and

- f. Black Amazon Tablet, Model Number SV98LN, with cord.

4. Based on my communications with FBI Task Force Officer ("TFO") Bernell E. Trapp, Special Agent Amy Whitman, and my assistance with the underlying search warrant application, I know the following:

II. DIGITAL DEVICES SEIZED PURSUANT TO A MARCH 5, 2018 SEARCH WARRANT

5. On or about March 5, 2018, TFO Trapp obtained a federal search warrant issued by the Honorable Rozella A. Oliver, United States Magistrate Judge, authorizing the search of the property located at 3052 W. Cherylllyn Lane, Anaheim, CA 92804 (the "SUBJECT PREMISES"). The warrant, which is incorporated herein by reference, specifically authorized the seizure of digital devices from the SUBJECT PREMISES for a period of 120 days to allow the government to search such devices for evidence of violations of Title 18, United States Code, Sections 2252A(a)(2) (receipt and distribution of child pornography), 2251(d) (advertisement of child pornography), and 2252A(a)(5)(B) (possession of child pornography).

6. On or about March 9, 2018, federal agents executed the warrant at the SUBJECT PREMISES and seized the SEIZED DIGITAL DEVICES, which include the SUBJECT DIGITAL DEVICES. Based on the terms of the search warrant, the government therefore had until July 7, 2018, to retain and search the SEIZED DIGITAL DEVICES.

III. INITIAL REVIEW OF THE SEIZED DIGITAL DEVICES

7. On or about May 5, 2018, forensic specialists from the Los Angeles County Sheriff's Department, High Tech Task Force began to prepare a forensic image of the Silver Samsung cell phone with broken screen, Model Number SM-J327P and the Gold LG Cell Phone with broken screen, Model Number LS990, Serial Number 410KPVH0351583. After the forensic exams were completed on the two listed cell phones, the forensic specialists discovered numerous images of child pornography. The following is a description of a sample of the images of child

pornography that were discovered on the Gold LG Cell Phone with broken screen, Model Number LS990, Serial Number 410KPVH0351583:

a. An image file entitled "1024_x768_bestfit.jpg" shows the torso and legs of a nude prepubescent female. The prepubescent female has her legs spread exposing her vagina. An adult male is anally penetrating the female with his erect penis.

b. An image file entitled "large.jpg" depicts a nude prepubescent female lying on her back. The female's legs are spread and raised in the air, bent at the knees. The female's vagina and anus are exposed.

8. Additional time is necessary to complete the review of the contents and "bookmark" only the information allowed under the legal authority provided in the search warrant as well as complete the search of the devices not yet searched.

9. TFO Trapp has been able to complete reviews on all the thumb drives, the external SD memory cards, and the laptop, and no images of child pornography or other items responsive to the search warrant were found on those devices.

10. The Nintendo devices do not have removable storage devices and TFO Trapp currently has no way to forensically search the devices. No further efforts will be made to search the Nintendo devices.

IV. Nunc Pro Tunc Extension Request

11. The underlying search warrant in this matter authorized the government to retain and search the digital devices for 120 days from the date of the execution of the warrant. Therefore, the time within which the government was authorized to search the digital devices

seized on March 9, 2018, was July 7, 2018. The government halted its review of the SEIZED DIGITAL DEVICES, including the SUBJECT DIGITAL DEVICES, on July 7, 2018.

12. Due to a miscommunication between TFO Trapp and me, the government neglected to file the instant ex parte application to extend the time within which the government may retain and search the SEIZED DIGITAL DEVICES prior to the expiration of the initial 120-day review period authorized by the underlying search warrant.

A. NUNC PRO TUNC EXTENSION OF TIME TO RETAIN DEVICES

13. The instant application is being filed on October 10, 2018. The government therefore requests an extension, nunc pro tunc, by an additional 91 days the time within which the government may retain the SEIZED DIGITAL DEVICES.

B. EXTENSION OF TIME WITHIN WHICH TO RETAIN AND SEARCH DEVICES

14. In addition, and for the following reasons, I am requesting an additional 60 days for the government to complete its review of the SUBJECT DIGITAL DEVICES:

a. The SUBJECT DIGITAL DEVICES alone contain approximately 90 gigabytes of data. The information stored on the cell phones hold an unknown amount of storage, but smart phones can hold several Gigabytes of information, as well as several Gigabytes of deleted information which agents will have to review. Processing and reviewing all these devices and documenting them is time consuming.

b. To date, all of the external storage devices, thumb drives, SD memory cards, and the laptop have been previewed, and no evidence was found.

c. Evidence of the Subject Offenses were found on the cell phones, however, the following review needs to be completed:

i. A finalized report for the Gold LG Cell Phone with broken screen, Model Number LS990, Serial Number 410KPVH0351583 must be completed;

ii. A forensic image and finalized reported must be completed on the Black Alcatel cell phone, Model Number 5Q27B, MEID HEX Number 35790707628717;

iii. A forensic image and finalized report must be completed on the Black LG Android Cell Phone, Model Number LGLS991, IMEI Number 357355062960973; and

iv. A forensic image and finalized report must be completed on the Black Amazon Tablet, Model Number SV98LN

d. The last remaining evidence item to be examined is the Black X-Box 360, Model Number 1538, Serial Number 30088234108. To date, we are still working to identify a way to forensically examine this device.

e. The forensic review of digital devices is also time consuming. Agents cannot simply turn on the devices and review their contents because merely turning on a device and reviewing its contents changes the data. Specialized extraction software is therefore needed to ensure that evidence remains in a pristine and usable condition, and is not affected by the review process. The review also must be conducted by agents who have received specialized training to ensure that the review is done thoroughly and in a forensically sound fashion. This process takes substantial time. Further, the number of digital devices, the amount of time for the

computer systems to read the data for viewing, and for the investigator to view and "bookmark," or label, the images of contraband as evidence are tasks which require a significant amount of time and more time than is presently available.

15. For these reasons, agents have not been able to complete the review in the time allotted. I am therefore requesting an extension of 60 days, until December 9, 2018, in order to conduct the search of the SUBJECT DIGITAL DEVICES.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed at Los Angeles, California, on October 10, 2018.



STACEY R. FERNANDEZ
Special Assistant United States
Attorney

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9 Attorneys for Applicant
UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 IN RE SEARCH WARRANT FOR DIGITAL
DEVICES SEIZED ON OR ABOUT MARCH
13 9, 2018 FROM THE PROPERTY
LOCATED AT 3052 W. CHERYLLYN
14 LANE, ANAHEIM, CA 92804

No. 2:18-MJ-00484

~~[PROPOSED]~~ ORDER ALLOWING
EXTENSION, NUNC PRO TUNC, OF TIME
WITHIN WHICH TO RETAIN DIGITAL
DEVICES; AND FOR AN EXTENSION OF
TIME WITHIN WHICH TO RETAIN AND
SEARCH DIGITAL DEVICES

(UNDER SEAL)

19 For good cause shown, IT IS HEREBY ORDERED that the government
20 may retain, pursuant to the terms of the original warrant in this
21 matter, for an additional 91 days beyond the time period previously
22 authorized, that is, to October 10, 2018, the following digital
23 devices:

- 24 a. Green and white USB Micro Storage Device(Thumb Drive);
25 b. Blue Toshiba SD Memory Card, 2 GB;
26 c. Black Sandisk Micro SD, 16 GB;
27 d. Black Sandisk Micro SD, 32 GB, with adapter;
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- 1 e. Black Sandisk Micro SD, 32 GB;
- 2 f. Black LG Android cell phone, Model Number LGLS991,
- 3 IMEI Number 357355062960973, with cord;
- 4 g. Silver Samsung cell phone with broken screen, Model
- 5 Number SM-J327P;
- 6 h. Gold LG Cell Phone with broken screen, Model Number
- 7 LS990, Serial Number 410KPVH0351583;
- 8 i. Black FC USB 2.0 Thumb Drive;
- 9 j. Black X-Box 360, Model Number 1538, Serial Number
- 10 30088234108 with cord;
- 11 k. Red Nintendo DS, Model Number NTR-001;
- 12 l. Black Nintendo DS Lite, Model Number USG-001 with
- 13 cord;
- 14 m. Black Ultra Sandisk SD Card, 2 GB;
- 15 n. Blue HC SD Card, 4 GB;
- 16 o. Purple Dell Laptop with chipped corner;
- 17 p. Green and White OC Public Works Thumb Drive;
- 18 q. Black Alcatel cell phone, Model Number 5Q27B, MEID HEX
- 19 Number 35790707628717; and
- 20 r. Black Amazon Tablet, Model Number SV98LN, with cord.

21 For good cause shown, IT IS FURTHER HEREBY ORDERED that the
22 government may retain and search, pursuant to the terms of the
23 original warrant in this matter, for an additional 60 days, up to and
24 including December 9, 2018, the following digital devices:

- 25 a. Black LG Android cell phone, Model Number LGLS991,
- 26 IMEI Number 357355062960973, with cord;
- 27
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1 b. Silver Samsung cell phone with broken screen, Model
2 Number SM-J327P;

3 c. Gold LG Cell Phone with broken screen, Model Number
4 LS990, Serial Number 410KPVH0351583;

5 d. Black X-Box 360, Model Number 1538, Serial Number
6 30088234108 with cord;

7 e. Black Alcatel cell phone, Model Number 5Q27B, MEID HEX
8 Number 35790707628717; and

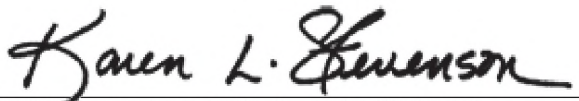
9 f. Black Amazon Tablet, Model Number SV98LN, with cord.
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13 October 10, 2018
DATE

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HONORABLE KAREN L. STEVENSON
UNITED STATES MAGISTRATE JUDGE

15 Presented by:

16 /s/

17 STACEY FERNANDEZ
Assistant United States Attorney
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